

**Introduced by Senator Burton**

February 26, 1999

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An act to amend Section 23040.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1239, as introduced, Burton. Corporations: partnership investment income.

The Bank and Corporation Tax Law provides that income from sources in this state is generally taxable. The law exempts from taxation the distributive share of interest, dividends, and gains from the sale or exchange of qualifying investment securities derived by a corporation that is a partner in a partnership that qualifies as an investment partnership, if the income from the partnership is the only income of the corporation derived from sources in this state. This exemption does not apply if the corporation participates in the management of investment activities or is engaged in a unitary business with another corporation that meets specified qualifications.

This bill would provide in addition that the exemption does not apply if the corporation participates or is engaged in a unitary business with other corporations that meet specified qualifications.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23040.1 of the Revenue and  
2 Taxation Code is amended to read:

3 23040.1. (a) Notwithstanding Sections 23040 and  
4 25101, income derived from or attributable to sources  
5 within this state ~~shall~~ *does* not include the distributive  
6 share of interest, dividends, and gains from the sale or  
7 exchange of qualifying investment securities derived by  
8 a corporation that is a partner in a partnership that  
9 qualifies as an investment partnership under Section  
10 17955, whether or not the partnership has a usual place of  
11 business in this state, if the income from the partnership  
12 is the corporation's only income derived from or  
13 attributable to sources within this state.

14 (b) Subdivision (a) ~~shall~~ *does* not apply to a  
15 corporation that participates in the management of the  
16 investment activities of the investment partnership or  
17 that is engaged in a unitary business with another  
18 corporation *or corporations* or partnership that  
19 participates in the management of the investment  
20 activities of the partnership or has income derived from  
21 or attributable to sources within this state other than  
22 income described in subdivision (a).

23 (c) For purposes of this section:

24 (1) "Investment partnership" means a partnership  
25 that meets both of the following requirements:

26 (A) No less than 90 percent of the partnership's cost of  
27 its total assets consist of qualifying investment securities,  
28 deposits at banks or other financial institutions, and office  
29 space and equipment reasonably necessary to carry on its  
30 activities as an investment partnership.

31 (B) No less than 90 percent of its gross income consists  
32 of interest, dividends, and gains from the sale or exchange  
33 of qualifying investment securities.

34 (2) (A) "Qualifying investment securities" include all  
35 of the following:

36 (i) Common stock, including preferred or debt  
37 securities convertible into common stock, and preferred  
38 stock.



1 (ii) Bonds, debentures, and other debt securities.

2 (iii) Foreign and domestic currency deposits or  
3 equivalents and securities convertible into foreign  
4 securities.

5 (iv) Mortgage- or asset-backed securities secured by  
6 federal, state, or local governmental agencies.

7 (v) Repurchase agreements and loan participations.

8 (vi) Foreign currency exchange contracts and  
9 forward and futures contracts on foreign currencies.

10 (vii) Stock and bond index securities and futures  
11 contracts, and other similar financial securities and  
12 futures contracts on those securities.

13 (viii) Options for the purchase or sale of any of the  
14 securities, currencies, contracts, or financial instruments  
15 described in clauses (i) to (vii), inclusive.

16 (ix) Regulated futures contracts.

17 (B) “Qualifying investment securities” does not  
18 include an interest in a partnership unless that  
19 partnership is itself an investment partnership.

